

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 12955, of William L. Walde, D. Gay Walde and Stephen B. Shapiro, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the prohibition against having open parking spaces within ten feet from the wall of a multiple dwelling containing openings designed to provide light or ventilation (Paragraph 7205.22) in an R-5-C District at the premises 1925 - 16th Street, N.W. (Square 190, Lot 126).

HEARING DATE: June 20, 1979

DECISION DATE: July 11, 1979

FINDINGS OF FACT:

1. The subject property is located on the east side of 16th Street, N.W. and is known as 1925 - 16th Street. It is in an R-5-C District.
 2. The subject site is eighty feet deep by 47.25 feet wide and is improved with an apartment building of eighteen units. To the rear of the building is a ten foot wide alley.
 3. The building is being renovated and will be converted to condominiums.
 4. The applicant proposes to provide three parking spaces in the rear yard of the apartment building. The three spaces have been paved.
 5. Paragraph 7205.22 of the Zoning Regulations prohibits open parking spaces within ten feet of the wall of a multiple dwelling containing openings designed to provide light or ventilation. The subject parking spaces will be perpendicular to the alley and flush with the wall of the subject building. The spaces are eighteen feet deep by eleven feet wide. Cars are to be parked facing the building. The height of the cars will be approximately three feet from two open windows of the apartment house.
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6. The applicant argued that the subject parking space is dead space and can't be used for any other purpose. He further argued that if the variance is allowed three on-street parking sites will be available to the neighborhood. The applicant also testified that the condominium purchasers are aware that the applicant is seeking the subject variance.

7. Advisory Neighborhood Commission 1B made no recommendation on the application.

8. The Dupont Circle Citizens Association objected to the application on the grounds that the variance sought is a use variance, which requires a showing of a hardship upon the owner of the property stemming from the property itself which the applicant has not established. Many apartment buildings have been converted to condominiums in this area without providing parking. The Association argued that parking is not essential to the condominiums since many people in this area are not using cars, that the subject parking spaces would be leased and used for investment purposes, that the alley is too narrow and that to grant this variance would encourage other owners to pave their rear yards for parking purposes. The Association argued that the subject building has been used for residential purposes for years without any parking facilities.

9. As to the issues raised by the Dupont Circle Citizens Association, the Board finds that the requested variance is not a use variance, but an area variance. The Board finds that it has consistently held variances of this kind to be area variances. The applicant must therefore show proof of a practical difficulty rather than a hardship. The Board finds that the lack of parking in other condominiums and the previous lack of parking in the building have no bearing on this case. The Board notes that only three spaces are involved in this application and that no substantial adverse consequences are anticipated. As to the precedent set by this case, the Board has consistently found that each case must be decided on its own merits and on the specific set of facts present therein.

CONCLUSIONS OF LAW:

Based on the findings of fact, the Board concludes that the relief requested is an area variance, since what is at issue is not whether the parking spaces are permitted, but where they are to be located. The granting of an area variance requires the showing of a practical difficulty upon the owner inherent in the property. The Board concludes that the location of the existing building on the lot creates the practical difficulty, since there is insufficient room to provide the ten foot setback.

The Board concludes that the use of the spaces tends to relieve the parking situation in the neighborhood and thus serves a community purpose. The Board also notes that the purchasers of the condominium units have been put on notice as to the proposed parking in the rear yard and its proximity to the subject building. The Board further concludes that the variance can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan. Accordingly, it is ORDERED that the application is GRANTED.

VOTE: 4-0 (Walter B. Lewis, Chloethiel Woodard Smith, Charles R. Norris to GRANT; William F. McIntosh to GRANT by PROXY; Leonard L. McCants not voting, not having heard the case).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER:

5 SEP 1979

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF LICENSES, INVESTIGATIONS, AND INSPECTIONS.